IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHARTERED ACCOUNTANTS REFERENCE NO.1 OF 2002

The Council of the Institute of
Chartered Accountants of India .. Petitioner.

V/s.

Shri Ashit R. Mehta, FCA
Chartered Accountant,
Building No.42, 3rd Floor,
Veer Nariman Road,
Opp. Akbarallys, Mumbai - 23. .. Respondent.

Dr.Virendra Tulzapurkar, Senior counsel with Ms.Soumya Srikrishna i/b. Kanga & Co. for the petitioner.

Mr.Bipin Joshi for the respondent.

Mr.S.S. Pakale for the Union of India.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 20TH OCTOBER, 2004.

ORAL JUDGMENT (Per R.M. Lodha, J.) :

This is a reference under Section 21(5) of the Chartered Accountants Act, 1949 (for short 'Act of 1949').

2. National Safety Council, Mumbai lodged a complaint against the respondent Shri Ashit R. Mehta, Chartered Accountant. The allegations against the respondent were that as a statutory auditor the respondent failed to obtain sufficient information

and he failed to check and verify various areas inter alia improper totalling of the accounts in ledger, wrong carry forward of figures, incorrect entries in the bank reconciliation statement and omission of cash entries on receipt side of cash book.

3. The Council of the Chartered Accountants of India (for short 'the Council') forwarded the complaint to the respondent. The respondent submitted his written statement. The Council was of the prima facie opinion that the respondent was guilty of professional and/or other misconduct and, accordingly, referred the case to the Disciplinary Committee for enquiry. The Disciplinary Committee held enquiry. The respondent admitted his guilt and requested for lenient view. The Disciplinary Committee ultimately held that the charges of misconduct were proved against the respondent and that he was guilty of professional misconduct under Clauses (7) and (8) of Part I of the Second Schedule in terms of Section 21 read with Section 22 of the Act of 1949. The Committee forwarded its report to the Council. The Council asked the respondent to send his written representation and appear either in person or through a member of the Institute and make oral submissions. The respondent did not appear

before the Council. The Council accepted the report of the Disciplinary Committee and found the respondent guilty of professional misconduct as found in the report of the Disciplinary Committee and decided to recommend to this Court that the respondent be reprimanded. This is how the reference has been placed before us.

4. The charges of misconduct against the respondent related to the period when the respondent had a little experience. Before the Disciplinary Committee he was quite candid and without reservation pleaded guilty to the charges. Having considered his statement before the Disciplinary Committee, we are of the view that the negligence of the respondent as a statutory auditor occurred on account of his young age and inadequate audit experience at that time. Having pleaded guilty, the respondent deserves lenient consideration. We are told that save and except the mistakes that were committed by the respondent as set out in the complaint, the respondent has not been charged of professional misconduct at any point of time.

5. For all these reasons, we are satisfied that the recommendations of the Council that the

respondent be reprimanded may be accepted.

6. We, accordingly, dispose of this reference by following order :

i) The finding of the Council that the respondent is guilty of professional misconduct within the meaning of Clauses (7) and (8) of Part I of Second Schedule of the Act of 1949 in terms of Section 21 read with Section 22 is upheld.

ii) The respondent is reprimanded.

7. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)